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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 **MANUEL HILL,**

12 Plaintiff,

13 v.

14 **RODERICK HICKMAN, et al.,**

15 Defendants.
16

Case No. C 07-5125 JF

**[PROPOSED] ORDER
GRANTING DEFENDANTS'
MOTION TO DISMISS**

17 Plaintiff Orlando Perez is a state inmate incarcerated at Pelican Bay State Prison who filed
18 this action under 42 U.S.C. § 1983 and makes an Eighth Amendment claim against Defendants
19 Hickman and Horel.

20 Defendants filed a motion to dismiss this action because Plaintiff failed to exhaust his
21 available administrative remedies before filing suit, as required by the Prison Litigation Reform
22 Act (PLRA), 42 U.S.C. § 1997e(a). Defendants argued that Plaintiff failed to exhaust his
23 because his administrative appeals either do not concern the claim recognized by this court or
24 were not exhausted to the requisite third level of review.

25 After full consideration of all pleadings and good cause appearing, the Court grants
26 Defendants' motion to dismiss the action without prejudice.

27 Dated: _____

28 Jeremy Fogel
United States District Court Judge